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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,977	02/05/2004	Jeffrey L. Young	10872.0148.D	5187
23369	7590	06/30/2004	EXAMINER	
HOWREY SIMON ARNOLD & WHITE LLP			HEWITT, JAMES M	
750 BERING DRIVE			ART UNIT	
HOUSTON, TX 77057			PAPER NUMBER	

3679

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,977

Applicant(s)

YOUNG ET AL.

Examiner

James M Hewitt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-15, 17-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 7, 16 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/5/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Reference should be made to application 10/085,176, filed 2/27/02, now U.S. Patent No. 6,702,332. Also, as applications 09/422,480 and 09/141,545 have issued to patent, their respective patent numbers should be recited.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment described in claims 5-7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The embodiment described in claims 5-7 should be described in the specification. Care should be made not to introduce any new matter.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 15 and 16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 respectively of U.S. Patent No. 6,702,332. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims differ only by claims 1 and 2 requiring the hose receptacle to be friction-based, and the hose receptacle to be converted to a locking hose receptacle when the adapter first end is attached to the hose receptacle. These different limitations are considered inherent to the invention of claims 15 and 16.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, 8-11, 13-15, 17-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Keane (US 4,618,195).

With respect to claim 1 and with particular reference to Figure 3, Keane discloses an adapter (14) for connecting a hose to a hose receptacle of an object in a locking relationship, the adapter comprising: a first end adapted to be fixedly attached to one of the hose receptacle or the hose; and a second end having a first locking element adapted to selectively engage a second locking element to establish a locking relationship.

The first and second locking elements being either the rib on the adapter that engages a given corrugation on the hose and the corrugation, respectively, or the tab (28) and recess (26) respectively, or the projecting terminals (28) and female terminals (33) respectively.

With respect to claim 2, wherein the first end (30) is adapted to be fixedly attached to the hose receptacle.

With respect to claim 3, wherein the second locking element (a given corrugation) is attached to the hose, such that the hose is selectively connectable to the second end of the adapter in a locking relationship.

With respect to claim 5, wherein the first end (that end opposite 30) is adapted to be fixedly attached to the hose.

With respect to claim 6, wherein the second locking element (26) is attached to the hose receptacle, such that the second end of the adapter is selectively connectable to the hose receptacle in a locking relationship.

With respect to claim 8, wherein the first locking element (27) includes a post for interlocking with the second locking element. Given the broadest reasonable interpretation, the boss (27) has been interpreted as the claimed post.

With respect to claim 9, wherein the first locking element includes a generally U-shaped casing (45, the leftmost numeral 45 in Figure 3).

With respect to claim 10, wherein the first locking element includes a post (32) traversing the U-shaped casing for interlocking with the second locking element (33).

With respect to claim 11, a hose system for a vacuum appliance having a hose receptacle, the hose system comprising: a hose having a connection end; a first locking element connected to the connection end of the hose; and an adapter having first and second ends, the first end adapted to be fixedly attached to the hose receptacle, the

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second end having a second locking element adapted to selectively engage the first locking element.

For claim 13, the first locking element has been interpreted as a given hose corrugation, the adapter has been interpreted as (14), and the second locking element has been interpreted as that rib on the adapter that engages a given corrugation on the hose.

For claims 14-15 and 17-19, the connection end of the hose has been interpreted as (14), the adapter has been interpreted as (21), it being fixed or integral with the hose receptacle (15), the first and second locking elements have been interpreted as (45, the leftmost numeral 45 in Figure 3), including terminals (32), and (45, rightmost numeral 45 in Figure 3), including terminals (33), respectively.

With respect to claim 13, wherein the second locking element includes a post (rib) for interlocking with the first locking element. Given the broadest reasonable interpretation, the boss (27) has been interpreted as the claimed post.

With respect to claim 14, wherein the second locking element includes a generally U-shaped casing (rightmost 45).

With respect to claim 15, wherein the second locking element includes a post (one of terminals 33) traversing the U-shaped casing for interlocking with the first locking element.

With respect to claim 17, wherein the first locking element includes a post (32) for interlocking with the second locking element.

With respect to claim 18, wherein the first locking element includes a generally U-shaped casing (rightmost 45).

With respect to claim 19, wherein the first locking element includes a post (32) traversing the U-shaped casing for interlocking the second locking element.

With respect to claim 21, a hose system for a vacuum appliance having a hose receptacle, the hose system comprising: a hose having a connection end; a first locking element (a given corrugation) connected to the connection end of the hose; an adapter (14) having a second locking element (rib that engages a given corrugation) adapted to selectively engage the first locking element; and means (26 and 27) for fixedly attaching the adapter to the hose receptacle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berfield (US 5,408,722) in view of Keane (US 4,618,195).

Berfield discloses a hose connector that attaches to the inlet (hose receptacle) of a vacuum cleaner. The end of Berfield's connector includes flaps (78, 80) that extend outwardly therefrom, the flaps adapted to engage the hose receptacle (see Figure 6). Berfield's connector end is essentially an adapter that is formed in one piece with the hose (16). Keane teaches an adapter that at one end connects to a vacuum cleaner inlet and at the other attaches to a hose. In view of Keane's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form Berfield's connector end and hose as two separate pieces, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

With respect to claim 1, Berfield as modified by Keane discloses an adapter (14) for connecting a hose (16) to a hose receptacle (tank opening) of an object in a locking relationship, the adapter comprising: a first end adapted to be fixedly attached to one of the hose receptacle or the hose; and a second end having a first locking element adapted to selectively engage a second locking element to establish a locking relationship.

With respect to claim 2, wherein the first end is adapted to be fixedly attached to the hose receptacle.

With respect to claim 3, wherein the second locking element (a given corrugation) is attached to the hose, such that the hose is selectively connectable to the second end of the adapter in a locking relationship.

With respect to claim 4, wherein the first end of the adapter includes a plurality of flaps (78, 80) extending outwardly therefrom, the flaps adapted to engage the hose receptacle to fixedly attach the first end to the hose receptacle.

With respect to claim 5, wherein the first end is adapted to be fixedly attached to the hose.

With respect to claim 6, wherein the second locking element (36) is attached to the hose receptacle, such that the second end of the adapter is selectively connectable to the hose receptacle in a locking relationship.

With respect to claim 11, Berfield as modified by Keane discloses a hose system for a vacuum appliance having a hose receptacle, the hose system comprising: a hose having a connection end; a first locking element (a given corrugation) connected to the connection end of the hose; and an adapter having first and second ends, the first end adapted to be fixedly attached to the hose receptacle, the second end having a second locking element (rib, in Keane, that engages a given corrugation) adapted to selectively engage the first locking element.

With respect to claim 12, wherein the first end of the adapter includes a plurality of flaps (78, 80) extending outwardly therefrom, the flaps adapted to engage the hose receptacle to fixedly attach the first end to the receptacle.

Allowable Subject Matter

Claims 7, 16 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

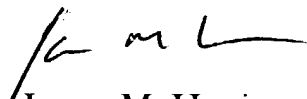
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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